OBSERVATIONS

ON THE

RESULT OF THE PRESENT MODE OF PROVIDING PORTIONS FOR YOUNGER CHILDREN,

BY

A CHARGE ON LANDED ESTATES.

BY

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THE following observations and suggestions are made in order to draw attention to the utility of a scheme which in the course of his professional occupation has frequently occurred to the writer. He is not so vain as to think it may not be improved, and of course the cases which he has supposed are a very few put for example, out of innumerable varieties which in this country continually arise from the complicated state of society. This complicated state and the intricate transactions to which it leads are not perhaps always sufficiently remembered in the frequent endeavours made to reduce our laws to a state of brevity and simplicity which can only suit a more simple condition of society.

OBSERVATIONS, &c.

THE affairs of mankind as to property are managed by two classes of lawyers, the conveyancers and solicitors. To them it is well known that as a rule there is but one history to be told of the transition of property. The owner begins to encumber it, his successor increases those encumbrances, and thus the course proceeds until the estate will bear no further charge, and then in about the third or fourth generation, and frequently sooner, it must be sold and all the charges on it paid. The estate is now clear, but in a new family; and the new owner perhaps, or if he does not, his son begins the same course, which is again gone through, and again from the same causes the estate must in more or less time be sold and pass into the hands of a third family.

The encumbrances so created are of course various as to the occasion of them, and where they arise from the improvidence of the owner there is nothing to be said

or done; if he will not remember that every man can if he chooses spend less than he does, and so help himself by greater care, no one else can help him. The sooner such a man ceases to be the owner or rather nominal owner of the estate the better; he fills a false position, the encumbrancers are the real owners, and he is an indifferent bailiff to them. He is too poor even to keep the estate in tolerable order, much less to improve it.

There are, however, other charges which in the course of time will so overburden an estate that it can no longer be kept in the family, namely, the portions provided for the daughters and younger sons of each generation in succession. To these may be added jointures, and as to this charge it may be remarked that the amount in proportion to the rental of the estate has greatly increased within the last fifty years. It may well be a question whether the increase is not sometimes too great. These, however, are legitimate provisions, which it is the duty of the owner to make, and the estate is the support of the family, the charges on it are their property, and not the property of strangers, and in that respect the estate and its charges may not inaptly be compared to this country and the national debt on it, which is our own and not borrowed of strangers. Those entitled to the portions, however, from time to time require them for

their own purposes, and then as wanted they must be raised out of the estate either by sale of part or by mortgage to strangers, and by either course the estate is diminished and must at length be exhausted.

It will illustrate this more fully to show how the present system will at the end of three generations operate on an estate of 10,000*l.* a year, making the charges on it not immoderate.

The owner on his marriage charges it with a jointure of 1200*l.* a year for his wife if she survives him, and with portions for the daughters and younger sons of the marriage according to the number of them, namely, if one 10,000*l.*, if two 15,000*l.*, if three 25,000*l.*, and if four or more 35,000*l.*, bearing interest after his death at the rate of 4*l.* per cent. Subject to these charges the estate is on the death of the owner to go to the eldest son. Having made these provisions, the owner gives himself no further trouble respecting charges which, as they are not to take effect until after his death, cause no pressure on him; he spends the whole of his income, making no provision towards lessening the burdens he has created, but leaves the whole to be borne by his successor. He dies leaving his widow and four younger children; the estate then has to pay 1200*l.* a year jointure, and 1400*l.* a year interest on the 35,000*l.* charged for

portions, leaving an income of 7400*l.* a year for the eldest son, who has the same large house, gardens, and park to keep up, the same position to maintain in society as his father, and to do which his father found the larger income of 10,000*l.* not more than sufficient; further this diminished income of 7400*l.* has to bear all the repairs, losses, and expences of management of an estate of 10,000*l.* a year in extent. The eldest son marries and makes a settlement similar to that made by his father, except that perhaps, a provision is made that if he should die in the life of his mother, his wife shall during the joint lives of herself and the mother, receive a jointure of 800*l.* only. The son, who, like his father before him, makes no effort to provide for the charges which are to take effect after his death only, and is indeed from diminished means less able to do so, dies leaving his widow and four or five younger children surviving him. It may be supposed that his mother has previously died. The estate is then subject to 1200*l.* a year jointure, and 70,000*l.* for portions, the interest of which is 2800*l.* a year, leaving an income of 6000*l.* a year to the eldest son, with which he struggles to do all that his grandfather did with 10,000*l.* a year. Finding himself straitened he begins to borrow money by mortgaging the estate, and perhaps in this way

charges it with 15,000*l.* He then marries and charges a jointure and portions not quite to the extent of the two preceding generations, but, having felt pressure and knowing it will again happen, he reserves to himself a power to borrow on mortgage a sum for his own use. The jointure will be 800*l.* a year, the portions 25,000*l.*, and the sum to be raised for his own use (and which certainly will be raised) 10,000*l.* Thus at the end of the third generation the estate is charged with a debt of 120,000*l.*, bearing interest at 4*l.* per cent., viz, 4800*l.* a year, which with the jointure of 800*l.* makes a deduction of 5600*l.* from the income of the estate, leaving 4400*l.* a year only for the eldest son. In the meantime, from increasing disability, the house, the gardens, the park, the whole estate, have been falling into disorder and decay; and the owner finding it impossible to retrieve when the means are so small compared to the demands upon those means, is compelled to sell the whole or the greater part of the estate, which as a family estate is then at an end. In the case which is thus put, there is not taken into the account the fortune which each wife will bring, because it does not usually happen that it is sufficiently large to put into settlement, but is paid to the husband, who in return makes the provision out of his own estate for her and her children, and he finds her

fortune (which is perhaps 5000*l.* or 6000*l.*) very useful to pay for alterations of his house or in new furnishing, or in getting rid of some troublesome debts: in some mode or other it is most usually soon absorbed. Neither on the other hand is any aggravation of the condition to which the estate is brought at the end of the third generation made to arise from a mania for building, the turf, or from contested elections, or any other extravagance in any one of the three generations. Neither is the case supposed to be aggravated from a very frequent cause, viz. the previous owner of the estate leaving all his personal property away from the successor to the estate, which takes all the arrears of rents, and the proportionate part of them up to the previous owner's death, so that though the charges begin to run against the successor from the day of the previous owner's death the receipts are not in proportion; and not unfrequently the successor has immediately to raise money to pay current expences and enable him to redeem the furniture of the house, which his father has given elsewhere with his other personal property. It is within my knowledge that on such an occasion a successor to an estate of 40,000*l.* a year has had immediately to borrow 25,000*l.* It must also be remembered that there will now be the succession tax to add to these difficulties.

The case of an estate of 10,000*l.* a year is put because there are not many that are so large, and where they are less the same system of charging on a less scale is used and the same result follows. The same result will also follow as to larger estates, for the scale of charging is then raised.

Such being too commonly the result of the present system, it becomes a question for serious consideration, whether some alteration cannot be made in the system by which the evils can at least be lessened. It is manifest, however, that it will be useless to propose any scheme, if the landowners do not second it by using more forethought than at present; and if more forethought were exercised, the very natural desire which all have that the estate should continue in their family would be much more frequently realised.

The scheme I would propose is, that the provision for portions should be made at least partly by insuring the life of the father of the children, the amount necessary to keep up the policies being secured by a rent-charge granted to trustees out of the estate. This, of course, would diminish the father's income; but by no means to that extent to which not only the income of his successor, but the corpus of the estate also are diminished under the present system; and,

moreover, it would then be the case of a father by a forced saving (for that is the true description of insurance) providing for his own children, instead of throwing that burden on his eldest son, and making it the case of a brother having to provide for his brothers and sisters.

To illustrate this proposition, I will again take the case of an estate of 10,000*l.* a year. Suppose the owner to be thirty years of age at the time of his marriage, and that he then insures his life for 20,000*l.* as a fund for portions. There are two modes in which he might insure, namely, either for his whole life, which would be about 2*l.* 10*s.* per cent., or 500*l.* a year for his whole life, or by fewer, but larger, annual payments, say fifteen years, which would be about 4*l.* per cent. or 800*l.* a year for that time, and then he would have no further payment to make.* Of the two modes the second is undoubtedly the best, because when at the end of the fifteen years the children of the assured, as he is called, are beginning to be more expensive to him, the obligation to pay the 800*l.* a year will have ceased, and

* According to the tables of the Sun Life Office, the rate in the first case would be 2*l.* 9*s.* 2*d.*, and in the second 4*l.* 1*s.* 1*d.* I refer to these tables because I believe this was the first office that abandoned Dr. Price's or the Northampton Tables and adopted the Carlisle Tables, and thus lowered the rate of insurance on young lives.

he will have that addition to his income. If the assured lives some years, there will be additions to the policies by way of bonus, probably to the extent of 2000*l.* or 3000*l.* The fund so assured, with the additions, may be made the first fund for the portions, and the deficiency only, if more should be required than the insurance will provide for, should be charged on the estate. If the fund is more than sufficient, the surplus will be part of the personal estate of the assured, or it might be made available as a fund to diminish the charge of the jointure on the estate, either by applying the income of the surplus in part payment of the jointure, or by sinking the capital in the purchase of a government annuity for the life of the widow.

Thus, according to the scale before put, if there is only one child entitled to a portion, the sum required will be 10,000*l.*; if there are only two entitled to portions, then 15,000*l.*; and as the fund will then be more than sufficient, no charge for portions will be necessary on the estate; if there are three children, the fund will be nearly, or may be quite, sufficient; and if there are four or more, the surplus to be charged on the estate would probably not be above 10,000*l.* or 12,000*l.*, instead of 35,000*l.*; and carrying the same calculation through three generations in succession, as

in the case first put, the sum charged on the estate towards portions, supposing the maximum in each case to be required, would, at the end of the third generation, be about 30,000*l.*, instead of 95,000*l.* It is scarcely necessary to say, that if the owner of the estate would in each case insure for the maximum, that is, if for his whole life at an annual cost of about 875*l.* during his life, or if for fifteen years on higher terms, at an annual cost of about 1400*l.*, during those fifteen years, the result would be no charge for portions on the estate, and the bonuses, if any, would go to increase his personal estate, or might be usefully employed, as before suggested, in diminishing the charge of the jointure. To insure his life for the maximum might, however, be asking more self-denial than the landowner would be willing to exercise, especially as the maximum might not be required: but it may be remarked, that though the maximum might not be required, yet, in the case of a second marriage, the surplus would be found very useful towards the portions of the children of that marriage in relief of the estate; for an event I have omitted to mention not unfrequently happens, which operates still further to burden the estate, namely, two sets of portions charged in one generation. If the fund should not be required at all for portions, it

should be appropriated to relieve the estate from the jointure.

The case here put supposes that the assured is in possession of the estate; but there is another case of very frequent occurrence, namely, that of the eldest son marrying during the life of his father. In such a case the two must apportion the weight of the insurance between them, the son receiving a smaller income from his father; and if the father shall have previously adopted the system of insurance on the plan of the payments being over at the end of fifteen years, it will greatly facilitate the arrangement for insurance on the marriage of his eldest son. If the son should die in the lifetime of his father, the income of the money to be received on the policies must, of course, be made the first fund for the support of his widow and children.

A great variety of other cases might easily be put, and each must of course be dealt with according to its circumstances.

The remarks here made are too slight to justify publication; but they may be worth the attention of the two classes of lawyers before referred to, and should the landowners exercise some self-denial, and be inclined to support the scheme under the recommendation of their

legal advisers, there can be no doubt that the result must be that estates will not only remain longer in the same family, but that each owner in succession will be better able to maintain his position with credit, in which may be included the ability to improve his estate and the condition of those who cultivate it. The condition and conduct of a landed proprietor more or less affect every person on his estate, so that the owner of an estate worth 100,000*l.*, by his condition and conduct, has a much wider influence than he who has 300,000*l.* in money; the last is a material person to the tradesmen with whom he deals, but to them only; and the first has more or less an influence on the whole population living on his estate.

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